**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH**

C.R.No.1630 of 2007

DATE OF ORDER: 23.3.2007

Smt Simro Devi and Others

...Petitioner(s)

Versus

Rachhpal Singh and Another

....Respondent(s)

**CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL**

**.*.*.*.**

Present: Mr. R.K. Joshi, Advocate.

**M.M. AGGARWAL,J**

This is petition against order dated 17.12.2006 passed by Civil Judge(Jr.Divn.), Dasuya whereby Baldev Singh witness, who had been produced by the defendants as DW1 was allowed to be cross examined by the defendants.

It comes out that Baldev Singh was a witness of a receipt dated 1.5.2002. He had filed an affidavit in the affirmative evidence copy Annexure P-5-A. Then he was cross-examined. There was some lengthy cross-examination on 7.11.2006. It comes out that the matter was taken up again on 7.12.2006 by the Court. Record shows that the case was again fixed for cross-examination of DW1 on that day and then counsel for the defendant made a request for declaring him hostile. That request was allowed.

On behalf of the petitioner-plaintiff, it is argued that cross-examination was already complete and thereafter DW1 could not be declared hostile and the defendants could not be afforded an opportunity to cross-examine his own witness.

From the punjabi version of cross-examination of 17.11.2006, it would come out that further cross-examination had been deferred and then the matter appears to have been taken up for cross-examination on

7.12.2006. In any case, after the cross-examination had been started and there had been cross-examination by the opposite party then that witness could not be declared hostile on the request of the party, who had examined that own witness. If there is any ambiguity, then the parties producing the witnesses would have been entitled to re-examination of the witness.

Under these circumstances, this petition is allowed to the extent that the witness cannot be declared hostile at this stage. Let the defendant, who had produced the witness be allowed re-examine the witness if required after the cross-examination by counsel for the plaintiff of this witness is complete.

March 23, 2007 ( M.M. AGGARWAL )
manoj JUDGE